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A Man's Fitness to Practice Law Should Not Be Determined by His Religious Convictions

Conscientious Objectors and Public Service

AN EDITORIAL

CLYDE WILSON SUMMERS, a resident of Illinois, petitioned a court in his State for admission to the practice of law. The Committee on Character and Fitness of the Illinois Third Appellate District refused to issue a certificate of eligibility because Mr. Summers is conscientiously opposed to participating in war. The State Supreme Court upheld the action. Mr. Summers then sought a writ of certiorari from the Supreme Court of the United States "to review the action of the Supreme Court of Illinois in denying petitioner's prayer for admission to the practice of law in that State." On June 11, by one of its now common five to four decisions, the United States Supreme Court affirmed the action of the Illinois Supreme Court.

It was the contention of Mr. Summers and his attorney that the Illinois refusal and the reasons given for it were contrary to the guaranties of the Fourteenth Amendment of the Constitution of the United States, which says: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law."

Mr. Justice Reed, speaking for the majority and rendering the opinion of the United States Supreme Court, denied that Illinois' action "violates the principles of religious freedom which the Fourteenth Amendment secures against state action."

This decision is now law, but we believe it is unjust and unfair and contrary to the spirit of religious freedom. We find it easy to follow the reasoning and conclusion of the minority. Mr. Justice Black, speaking for them, declared:

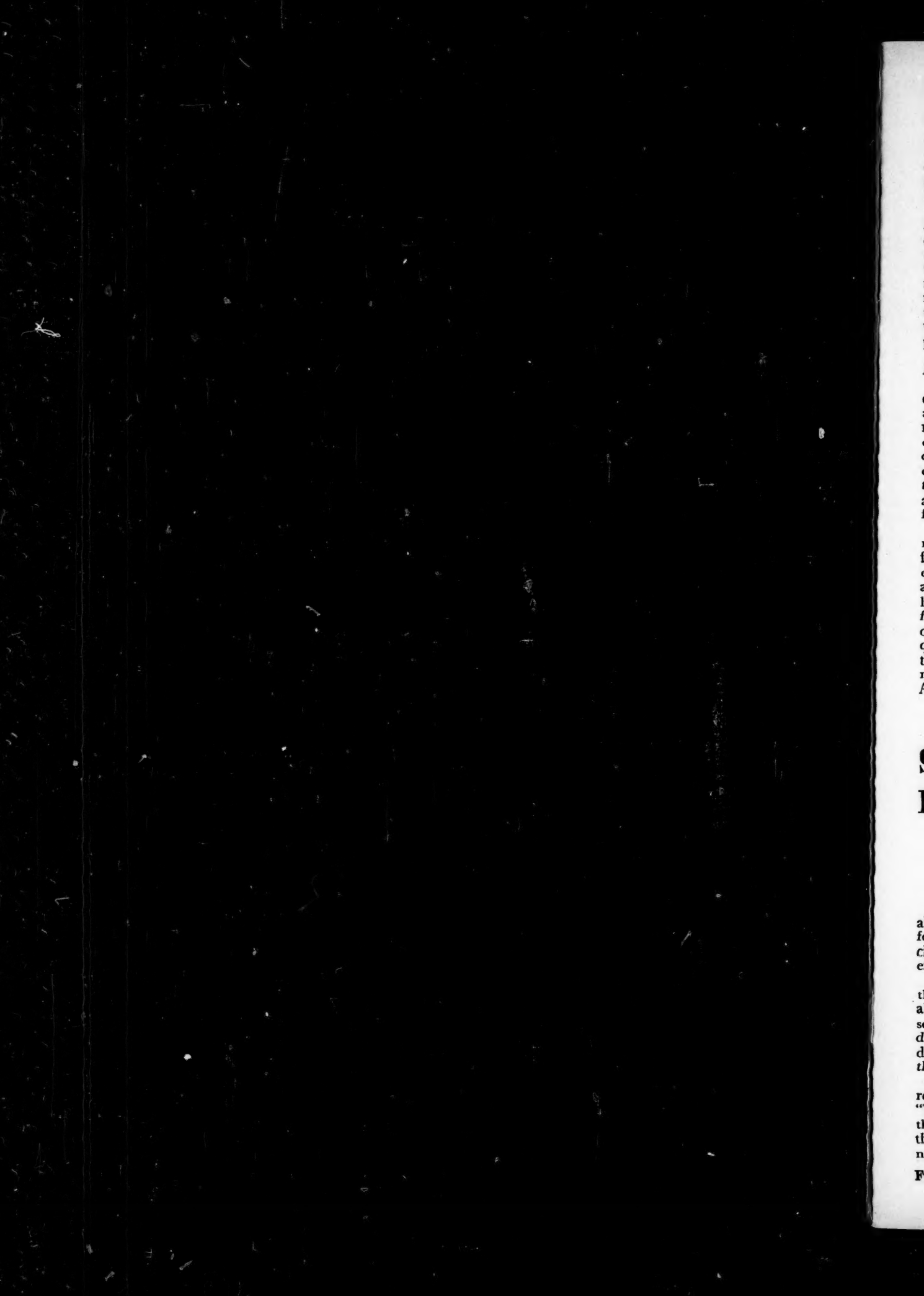
"The State of Illinois has denied the petitioner the right to practice his profession and to earn his living as a lawyer. It has denied him a license on the ground that his present religious beliefs disqualify him for membership in the legal profession. The question is, therefore, whether a State which requires a license as a prerequisite to practicing law can deny an applicant a license solely because of his deeply rooted religious convictions. The fact that petitioner measures up to every other requirement for admission to the Bar set by the State demonstrates beyond doubt that the only reason for his rejection was his religious beliefs. . . . The petitioner's disqualifying religious beliefs stem chiefly from a study of the New Testament and a literal acceptance of the teachings of Christ as he understands them. . . . The conclusion seems to me inescapable that if Illinois can bar this petitioner from the practice of law it can bar every person from every public occupation solely because he believes in nonresistance rather than in force. For a lawyer is no more subject to call for military duty than a plumber, a highway worker, a Secretary of State, or a prison chaplain.

"It may be, as many people think, that Christ's gospel of love and submission is not suited to a world in which men still fight and kill one another. But I am not ready to say that a mere profession of belief in that gospel is a sufficient reason to keep otherwise well-qualified men out of the legal profession, or to drive law-abiding lawyers of that belief out

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of the profession, which would be the next logical development.

"Nor am I willing to say that such a belief can be penalized through the circuitous method of prescribing an oath, and then barring an applicant on the ground that his present belief might later prompt him to do or refrain from doing something that might violate that oath. Test oaths, designed to impose civil disabilities upon men for their beliefs rather than for unlawful conduct, were an abomination to the founders of this nation. . . . I cannot agree that a State can lawfully bar from a semipublic position, a well-qualified man of good character solely because he entertains a religious belief which might prompt him at some time in the future to violate a law which has not yet been and may never be enacted. Under our Constitution men are punished for what they do or fail to do and not for what they think and believe. Freedom to think, to believe, and to worship, has too exalted a position in our country to be penalized on such an illusory basis."

Commenting on the opinion in this case, the *Washington Post* of June 19, 1945, says editorially:

"Most laymen with a concern for civil rights will experience shock and bewilderment, we think, both at the intolerance which motivated the Illinois action and at the legalistic reasoning which permitted validation of it by five justices of our top tribunal. When all the legal niceties have been considered, this remains a clear case of proscription for opinion or for religious faith. . . . We cannot help feeling that if it was the Supreme Court's business to take this case at all, it was its business to show a much more zealous regard for the principle of religious freedom."

As we noted in an earlier issue, the legislature of California passed a bill in its last session which was intended to bar from public office in California anyone who had asked for exemption from bearing arms for any reason. When the attempt was first made, the attorney general of the State held that the bill was unconstitutional. The measure that finally passed required that an applicant for any public office would be required to answer in writing the following question: "If necessary, are you willing to take up arms in the defense of the United States of America?" In his veto message Governor Warren, showing a fine regard for basic American principles, said, among other things:

"It is obvious, therefore, that in final form the bill seeks to accomplish by indirection what it could not constitutionally accomplish directly. That is to say, instead of prohibiting a conscientious objector from holding public office or employment, it compels him to publicize his minority religious beliefs in a manner which would as effectively prevent his election or appointment thereto.

"The main question in determining the desirability of such legislation is whether it conforms to the letter and spirit of the constitutional provisions guaranteeing to every American freedom of worship according to his own conscience. Particularly is this true when we are in the middle of a terrible world war wherein people of all religions are joined together under the banner of the United Nations for the preservation of the Four Freedoms, among which is the freedom of religion—not just your religion and mine, but all religion. . . .

"In the spirit of the Bill of Rights, Congress has, in all of the important wars, made provision for those who have religious scruples against bearing arms. . . .

"Shall persons who thus exercise their constitutional and statutory rights in connection with their religion be held up to public scorn merely for doing so? I cannot believe that it is in the interest of the public welfare to so punish them. . . .

"In the last analysis, the question resolves itself into whether we shall punish throughout their lives those who hold such beliefs. I am satisfied that the people of our country do not find it in their hearts to do so. . . . I am sure the proponents of this bill have no such designs, but floodgates opened carelessly occasion the same damage as if they were opened intentionally.

. . . To my mind one of the most fundamental things we are fighting for is to retain the right we have always had in America to believe and live according to our religion and our individual consciences."

It is to be doubted that the legislature of Illinois would pass an act barring from the practice of law a man against whom nothing more can be said than that he was opposed to participation in war. But an appointed committee has been able to accomplish this by indirection, and its act has been upheld by the highest tribunal of our country. This appears as a case of floodgates opened carelessly. H. H. V.

Shall the State Prescribe and Proscribe Worship?

By PAUL OMAR CAMPBELL

EVERY MAN WANTS security. When someone comes along who promises security, many follow blindly. Blind following is an atmosphere in which the insecurity of fascism grows. Security is the result of freewill, individual effort.

If men are to have financial security they must work. If they desire political security and liberty, they must stay alert. If they want religious security, and freedom to preserve that security, they each must take responsibility. Individual responsibility is not negotiable. A man cannot delegate it to his best friend nor to the finest government this world affords, not even to the United States of America.

The Bible allows no one to relinquish his personal responsibility in worship. The prophet Ezekiel wrote, "Though Noah, Daniel, and Job, were in it, as I live, saith the Lord God, they shall deliver neither son nor daughter; they shall but deliver their own souls by their righteousness." Ezekiel 14:20.

Some believe that religious and spiritual security could be assured by allowing the state to prescribe and proscribe worship. The fallacy of this belief should be discussed.

Worship is the rendering of supreme respect, with veneration, to the Deity. Therefore, it cannot be prescribed nor proscribed by the state, because it is a matter of thinking. Worship goes deeper than action and involves motives. How is the state to tell what a man thinks, even though the man governs his outward conduct by what the state prescribes in religion? When the state makes a man follow a certain prescribed religion which the man does not believe, that state is merely encouraging insincerity. Prescribing religion places a premium on hypocrisy.

Galileo's experience under an attempted prescribing and proscribing of religion was interesting. Galileo believed the earth moved around the sun. He was forbidden to write contrary to what the state-church held as the supposed

(Continued on page 5)

★ LIBERTY ★

A MAGAZINE OF RELIGIOUS FREEDOM

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LIBERTY is the successor of the *AMERICAN SENTINEL*, whose first number was published in 1886, at Oakland, California. Its name was changed in 1906 to *LIBERTY*, under which name it has been published quarterly, by the Review and Herald Publishing Association, Takoma Park, Washington 12, D.C. Entered as second-class matter, May 1, 1906, at the post office at Washington, D.C., under the Act of Congress of March 3, 1879. Subscription rates—one year, 50 cents; club of three subscriptions to separate addresses, \$1; five or more copies mailed by publishers to five addresses or to one address, postpaid, each 9 cents. No subscription for less than one year received. Remit by post office money order (payable at Washington, D.C., Post Office), express order, or draft on New York. Cash should be sent in registered letter. When a change of address is desired, both old and new addresses must be given.



S. M. HARLAN
Visitors at Mount Vernon Re-enact Scenes of Long Ago

Last Quarter's Cover

It is our aim to present some interesting information relative to the cover of each issue. Last quarter we failed to do so. The only reference to it was on the contents page. We shall try to make partial amends by presenting here some pertinent facts concerning this special cover.

It is a view of the room in Independence Hall in Philadelphia where the members of the Second Continental Congress voted in 1776 to adopt the Declaration of Independence.

The table and chair in the center of the picture were used by John Hancock, the president of the Congress, and a signer of the Declaration. This same table and chair were used by Washington when he presided over the deliberations of the Constitutional Convention which met in this same room in 1787.

This cover was reproduced from a photograph taken in color by our own photographer. We are indebted to the custodians of this historic building for their special permission and courtesy in securing this cover picture.



This Quarter's Cover

Recently at Mount Vernon these visitors in the costumes of Washington's day wandered through this old Virginia mansion that was once the home of our first President and his gracious wife.

The wide expanse of green lawns and towering trees leads down to the very shores of the Potomac River. On the opposite side of the building lies an eighteenth-century flower garden, colorful and pleasing, substantially as planned by Washington. Boxwood hedges, planted in 1798, or earlier, form low borders for the flower beds.

Around this old plantation centered much of the Southern social and economic life of the eighteenth century. This property was acquired in 1858 by the Mount Vernon Ladies' Association, which has done much to preserve for posterity one of the greatest of all American shrines.

This cover also is the work of our own photographer. The visitors who so kindly appeared in our scene are local folk from our publishing house. Our special thanks are due also to the custodian of Mount Vernon and his associate, who graciously assisted us in securing this and similar pictures.



Next Quarter

The editors of *LIBERTY* wish to take this occasion to thank its readers for their patience during the time when paper restrictions forced us, along with other publishers, to reduce the size of our magazine. We have not enjoyed the smaller type and the fewer pages, and we feel sure our readers prefer the larger format. The government restrictions on paper have been removed, and now we may go back to our former size. With the next issue, *LIBERTY* will appear in an enlarged typographical dress. The larger type will make reading easier, and the increase in the number of pages will allow for more liberal illustrating. Again we say, Thank you.

LIBERTY, 1945

Shall the State Prescribe and Proscribe Worship?

(Continued from page 3)

truth on this subject. This prohibition Galileo disregarded, but he was finally made to recant. The *Encyclopædia Britannica* says:

"The legend according to which Galileo, rising from his knees after repeating the formula of abjuration, stamped on the ground, and exclaimed, '*Eppur si muove*,' is, as may readily be supposed, entirely apocryphal."—Volume X (Ed. 1901), Art. "Galileo."

Whether the quotation "*Eppur si muove*," is true or not, Galileo did recant. There were just two roads open to him. He could offer hypocritical lip service, or he could remain honest with himself and suffer persecution. When the state-church caused him to recant, it did not change his mind.

The very fact that a church secures a state law which endeavors to prescribe religion is evidence that there are dissenters. How can a law change a dissenter's mind? The fact is, it cannot; and furthermore, the minute worship is enforced it is no longer worship. Thomas Clarke said:

"There are many who do not seem to be sensible that all violence in religion is irreligious, and that, whoever is wrong, the persecutor cannot be right."—*American State Papers*, p. 579.

If the persecutor of dissenters, the prescriber of religion, is wrong, how can the prescribed religion be right? Any church that thus goes wrong cannot remain spiritually strong.

When the state attempts to prescribe worship, the weaker citizens become afraid and surrender their rights to individual thinking. Often the majority offer no opposition and let someone else do their thinking, hoping that this someone else will be able to assume all the spiritual responsibility involved. Any attempt to delegate personal responsibility in worship is futile, because no man can worship or think for another. The very attempt is weakening to all concerned.

The attempt to prescribe or proscribe worship tends to stifle thinking. When a man allows his thinking to be stifled, he has invited mental decay. If he accepts the prescribed religion, his thinking becomes circumscribed. If he continues to think for himself, and rebels, he will suffer ostracism, exile, or maybe martyrdom. Even martyrdom would be preferable to circumscribed thinking. When a man accepts the prescribed religion, and with it prescribed thinking, or rebels and is martyred, the state loses the man's vigorous thinking. Thus prescribing worship weakens the state.

About the middle of the seventeenth century the Boston Commonwealth sustained a great loss when it banished Anne Hutchinson. The fact that Anne Hutchinson and her family were sent away from Boston into the wilderness to be massacred by the Indians is a blot on American history. It all happened because Anne Hutchinson would not submit to having her religious thinking prescribed or proscribed. This incident is only one of many such in American history. America early learned by bitter experience that a state religion does not make for security but rather weakens the state.

The church also is weakened under a state religion. When any church has to request the state to enforce its religious dogmas, it advertises the fact that it has lost its divine power. Benjamin Franklin wrote in a letter to Dr. Price:

"When religion is good, it will take care of itself; when it is not able to take care of itself, and God does not see fit to take care of it, so that it has to appeal to the civil power for support, it is evidence to my mind that its cause is a bad one."

H. G. Wells, the historian, also believes that a state religion weakens the church, and has this to say:

"But by the thirteenth century the church had become morbidly anxious about the gnawing doubts that might presently lay the whole structure of its pretensions in ruins. It was hunting everywhere for heretics, as timid old ladies are said to look under beds and in cupboards before retiring for the night."—*Crux Ansata*, p. 13.

This internal fear and weakness had come about by an endeavor to prescribe worship. Thus security was banished for the minority, for the majority, for the church, and for the state.

Security in a community comes by thinking and planning. Usually the minority does the lion's share of the thinking in a community. It is the minority that reforms the church or state. The majority can protect itself, but the minority must be protected. When the minority is not protected, the state and church are both weakened. No organization can be strong without vigorous thinking. The minority cannot be expected to do its thinking unprotected. No community or state can long remain strong which does not protect all its citizens alike, regardless of race, creed, or color.

If the state cannot govern a man's thinking, it cannot accept a man's individual responsibility in religion. Yet many attempts have been made by various nations to govern the thinking of its citizens by prescribing and proscribing religion. The merits of any plan should be apparent by watching it in operation. To sum it up, the results of prescribing worship have been stifled thinking, persecuted honesty, praised hypocrisy, and martyrdom of millions. Certainly all this weakens individual citizens, weakens the church, weakens the state, and banishes security.

Some Americans are resting in the belief that the Constitution will preserve their religious freedom and security. They say, "The state will never jeopardize our security in these United States of America, because our Constitution ensures religious freedom." This belief is dangerous. As Americans, we do have a good Constitution. Ten of our constitutional amendments were written to help us preserve freedom of speech, freedom of the press, freedom to assemble, and freedom to worship. Even though the Constitution grants this freedom, it cannot enforce that freedom. It can only make freedom of speech possible. If we want freedom we must exercise it.

If we wish to have freedom to worship, we must appropriate the freedom granted. The Constitution is no stronger than our desire to preserve it. Each new generation must be taught to enjoy its liberty if America is to keep that dearly bought, constitutionally granted freedom. When America ceases to be alert, there are men who will endeavor to "change, amend, or blot out the present Constitution," that our worship might be proscribed.

If prescribed and proscribed worship should come to America, liberty would be gone. To make American liberty sure, Americans must know what liberty is and what it cost our forefathers. America must keep awake. Security here, or in any other country, is only assured by constant vigilance, and not by prescribing and proscribing worship. Alertness in guarding our liberty is the price of security.

GALILEO

Galileo Was Forced to Renounce Publicly His Belief That the Earth Moved Round the Sun but He Still Maintained His Conviction. Force in Religious Matters Always Produces Similar Results

DRAWING BY RUSSELL HARLAN



American Treaties and Religious Liberty

By the **HONORABLE FRED L. CRAWFORD**

Member of Congress From Michigan

THE DOCTRINE of religious freedom has at last encircled the world.

After a century and a half of successful existence in the United States, the great doctrine is now being given global significance by the United Nations. Freedom-loving Americans hope and pray that religious freedom will mean more to the people of the world than mere words in a signed and sealed document. They hope it will become a breathing reality.

Global encirclement by religious freedom has been emphasized in three great international documents within the past few weeks as the most hideous war in history was feebly gasping its last few breaths. It is not an innovation for the United States to be a signatory to an international agreement containing provisions for religious liberty, for the first mention of this typically American doctrine appeared in a treaty made by the Continental Congress before the birth of the United States. Since that time this country has entered into more than fifty treaties, each with a part which embraced religious freedom.

From Jefferson, Madison, Patrick Henry, and many more "fathers" of American freedom, to President Harry S. Truman is a long step; but the spirit of unfettered religion is as much alive in the three great international agreements associated with the ending of the war as it was in Madison's Memorial, or in Patrick Henry's famous speech.

One of the most important of these documents is the Charter of the United Nations which was drafted and adopted by the delegates to the recent San Francisco Conference. It is now pending ratification by the signatories, the United States Senate, by its sanction, making this nation the first to ratify. Of the other two, one is the Potsdam surrender ultimatum to Japan, to which that nation reluctantly assented, and the other is the tripartite agreement at the Berlin Conference.

The United Nations Charter deals with several phases of religious freedom. Section 3 of the Charter's Article I states that the purpose of the United Nations shall be "to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms of all without distinction as to race, sex, language, or religion."

Nations of the world that through calamities of the war are not yet self-governing, are guaranteed freedom of religion through a protectorate of the United Nations. The Charter establishes an international trusteeship, whose duty it shall be to "encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."—Article 76. Human rights and fundamental freedoms are to be made subject of a continuing study by the United Nations Economic and Social Council, provided for in the Charter, and this council is directed to make recommendations "for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all."—Article 62, section 2.

The tripartite conference of Berlin, participated in by President Harry S. Truman for the United States, Prime Ministers C. R. Attlee and Winston Churchill for the United Kingdom, and Generalissimo Joseph V. Stalin for the Soviet Union, resulted in an agreement on future plans for defeated Germany which contained provisions for freedom of religion.

One part of this agreement was that "all Nazi laws which provided the basis of the Hitler regime or established discrimination on grounds of race, creed, or political opinion shall be abolished." This wipes out the ugly laws against the churches. The accord further provides that "subject to the necessity for maintaining military security, freedom of speech, press, and religion shall be permitted, and religious institutions shall be respected."

The Potsdam ultimatum to Japan, announced July 26, giving Japan terms of unconditional surrender, echoed words of religious freedom similar to ones in another document signed by the United States and Japan nearly a century ago. The Potsdam edict declared, as one of the provisions for surrender, that "freedom of speech and religion and of thought, as well as respect for the fundamental human rights shall be established" in Japan.

Japan was given in 1858 its first lesson on the principles of religious liberty as practiced in America, and its textbook was in the form of the Treaty of Commerce and Navigation entered into between the two nations in that year. This agreement contained a clause stating, "Americans in Japan shall be allowed the free exercise of their religion, and for this purpose shall have the right to erect suitable places of worship. No injury shall be done to such buildings, nor any insult be offered to the religious worship of Americans. American citizens shall not injure any Japanese temple or mia, or offer any insult or injury to Japanese religious ceremonies, or to the objects of their worship. The Americans and Japanese shall not do anything that may be calculated to excite religious animosity." An unusual sentence inserted in this treaty said, "The government of Japan has already abolished the practice of trampling on religious emblems." Another treaty was signed in 1894 by representatives of the two nations, and it contained a clause which read, "The citizens or subjects of each of the contracting parties shall enjoy in the territories of the other entire liberty of conscience, and, subject to the laws, ordinances, and regulations, shall enjoy the right of private or public exercise of their worship."

China was a party to the Potsdam ultimatum to Japan, but she, too, established the first semblance of religious freedom within her borders largely as the result of a treaty with the United States. That treaty was concluded fourteen years earlier than the one with Japan, and said on this subject: "Citizens of the United States residing or sojourning at any of the ports open to foreign commerce shall enjoy all proper accommodation in obtaining houses and places of business, or in hiring sites from inhabitants on which to construct houses and places of business, and also hospitals, churches, and cemeteries."

Religious freedom as a part of China's "open door" policy was incorporated in the treaty with the United States in 1858. The earlier treaty was rewritten and the following article was added: "The principles of the Christian religion as professed by the Protestant and Roman Catholic churches, are recognized as teaching men to do good, and to do to others as they would have others do to them. Hereafter, those who quietly profess and teach these doctrines shall not be harassed or persecuted on account of their faith. Any person, whether citizen of the United States or Chinese convert, who according to these tenets peaceably teach and practice the principles of Christianity, shall in no case be interfered with or molested."

This paragraph differed from earlier treaties in that it spoke for religious liberty for the nationals of the country with which the United States negotiated the document. In 1868 we ratified another treaty with China, restating the principles of the above paragraph, but adding that "it is further agreed that citizens of the United States in China of every religious persuasion, and the Chinese subjects in the United States, shall enjoy entire liberty of conscience, and shall be exempt from all disability or persecution on account of their religious faith or worship in either country." This obviously broadened the freedom to include those not classified as "Christians," or identified as "Protestants," or "Roman Catholics," as the previous treaty had stated.

Perhaps the oldest treaty of record involving the Western Hemisphere which had a religious freedom clause is the one approved by the Continental Congress on January 22, 1783, with Netherlands. It was entitled a "Treaty of Amity and Commerce." Early among its clauses was one which stated, "There shall be an entire and perfect liberty of conscience allowed to the subjects and inhabitants of each party, and to their families; and no one shall be molested in regard to his worship, provided he submits, as to the public demonstration of it, to the laws of the country."

The doctrine was a part of one of the first treaties entered into following the union of the States. On May 17, 1786, a treaty with Prussia was ratified, which, among other things, provided that "the most perfect freedom of conscience and of worship is granted to the citizens or subjects of either party within the jurisdiction of the other, without being liable to molestation in that respect for any cause other than an insult on the religion of others."

Those responsible for incorporating religious freedom in this nation's Constitution when the nation was founded were also careful in the country's infancy to make sure that its emissaries traveling in foreign lands should be ensured of the unfettered privilege of worshiping in whatever manner they had been accustomed in America. Clauses similar to that quoted from the treaty with Prussia appeared in practically all the early treaties.

An all-embracing type of treaty such as the 1868 revision of the treaty with China to include Christian and non-Christian may be found in the nation's archives and antedates the China treaty by many decades. It is the treaty with Tripoli, ratified in 1796. It declared that "as the Government of the United States of America is not in any

sense founded on the Christian religion," and that since we held no enmity against the religions of the Mussulmen, and since we were not hostile "against any Mehomitan nation," therefore it was declared "that no pretext arising from religious opinions shall ever produce an interruption of the harmony existing between the two countries."

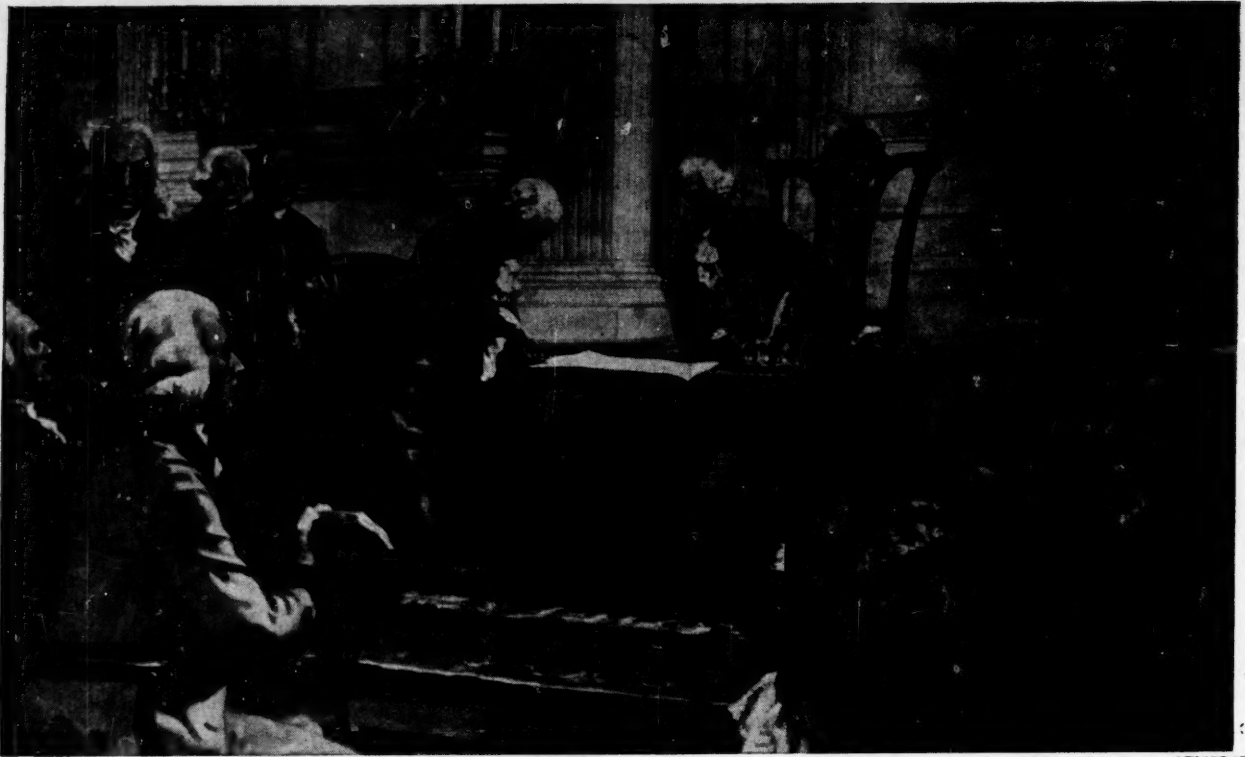
At least thirty-eight nations have joined this nation since its formation in general treaties which have included clauses with respect to freedom of religion. That this clause proved entirely satisfactory is shown by the fact that it was generally repeated in subsequent treaties with the same nation. The following nations have signed treaties with the United States which have contained one or more articles on that subject. The dates indicate the year in which the treaties were signed, and nations are listed alphabetically for convenience.

Algiers (1795, 1815, 1816), Argentine Republic (1853), Austria (1928), Bolivia (1858), Central American Federation (1825), Chile (1832), China (1844, 1858, 1868, 1903), Colombia (1824, 1846), Congo (1891), Costa Rica (1851), Denmark (1916), Dominican Republic (1867), Ecuador (1839), Estonia (1925), France (1803), Germany (1923), Great Britain (1924, 1930), Guatemala (1849), Haiti (1864), Hawaii (1849), Honduras (1864), Hungary (1925), Japan (1858, 1894), Latvia (1928), Madagascar (1867, 1881), Mexico (1831, 1848, 1853), Netherlands (1782), Nicaragua (1867), Paraguay (1859), Peru-Bolivian Confederation (1836), Peru (1851, 1870, 1887), Prussia (1785, 1799), Russia (1867), Salvador (1850), Siam (1856, 1920), Spain (1819, 1898, 1902), Sweden (1783), Tonga (1886), Tripoli (1796, 1805), Venezuela (1836, 1860).



HORYDCZAK

In the National Archives Building on the Right Are Preserved the Government's Most Important Documents and Public Records



The Constitutional Convention in 1787 Adopted a Form of Government in Which All Basic Human Rights and Freedoms Are Protected

AMERICA—"A New Order of the Ages"

The Inscription "Novus Ordo Seclorum" on the Reverse Side of the Great Seal of the United States Describes a Nation Unparalleled in Protection of Religious Freedom and Economic Security

By E. F. ALBERTSWORTH, Ph.D., S.J.D.

FROM THE LATIN inscription on the Great Seal of the United States it is evident that the founders of the American Republic believed they were establishing in the New World a "New Order of the Ages." History has verified it. Some Americans who may have doubted it and sought in other lands a better "order," have recognized their error. Although no perfect form of human government has ever been invented, that of the United States has come nearest approximating perfection in its maximum of freedom to all persons, as well as the highest standards of living the world has ever known. It is well for Americans occasionally to re-explore the foundations of this American new order so that they may better preserve it to themselves and posterity. Particularly should this be done by legislators, governmental administrators, lawyers, and judges who are the trustees of the actual application of the principles in the new order itself. And pulpit, press, and school likewise share a responsibility in keeping alive the "grass roots" in the soil of Americanism.

Belief by the Founders of the American "New Order" That Divine Providence Was Its Source

Before enumerating the factors which inhere in the American new order, it is important to examine into the origins

claimed for it by its founders. Such claims are of value in determining whether in truth it is a new order, and how valuable and enduring to mankind it may be. The long list of distinguished American patriots who signed the Declaration of Independence testified to their belief that "nature's God" had guided them in founding a new nation. They appealed to the "Supreme Judge of the World" for the rectitude of their intentions, and placed a "firm reliance on the protection of Divine Providence" in carrying out the principles of the newly created government.

Benjamin Franklin, American ambassador to France, who years previously had collaborated with Thomas Jefferson in formulating the Declaration of Independence, wrote "Information to Those Who Would Remove to America," in which, after praising the opportunities open in the vast New World, he said:

"The Divine Being seems to have manifested His approbation of the mutual forbearance and kindness with which the different sects treat each other, by the remarkable prosperity with which He has been pleased to favor the whole country."—*The Writings of Benjamin Franklin* (Smyth ed.), Vol. VIII, p. 614.

George Washington, Thomas Jefferson, Patrick Henry, and numerous other American patriots, in their published works and private letters expressed themselves repeatedly as of the belief that Divine Providence had guided and

overruled in the establishment in the New World of a new nation unlike any other in human history.

Thus, the American colonists, in the words of Longfellow, launched their "Ship of State," their "Union strong and great," under leaders who were committed to the religious view of the world and life. This conception of a new order dominated the minds of Americans for generations and influenced the entire civilized world. Here there was no monarchy or divine right of kings; no oligarchy of political rulers no hereditary nobility; no ecclesiastics leagued with political power. This was the country of the common man, with freedom its watchword, religious liberty, freedom of opportunity, equality before the law, and basic human rights stronger than government itself.

Elements of the New Order in American Civilization

Despite our modern environment of machinery, applied science, industrialism, and a smaller world due to the age of flight, the "grass roots" of fundamental Americanism are still not uprooted. The steel strand of the new order is unbroken among most Americans of the present day. Immanuel Kant, the great philosopher of the Age of Enlightenment, said:

"Two things fill the soul with an admiration and a respect ever reborn, two things that grow in the measure that the thought of them often comes back, and more and more applies itself to them: the starry heavens above us and the moral law within us."

A similar observation may be made of the factors underlying our American new order, which I catalogue as follows:

1. Supremacy and Controlling Force of Natural Rights

The American Constitution and the constitutions of the several States assert the existence of certain basic rights, known to some jurists as "natural law." The founders of our nation were greatly influenced in this belief by the writings of Sir William Blackstone, whose *Commentaries on the Laws of England* were published some ten years before the Declaration of Independence. Blackstone wrote:

"This law of nature, being coeval with mankind and dictated by God Himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times: no human laws are of any validity, if contrary to this; and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original." "Upon these two foundations, the law of nature and the law of revelation, depend all human laws; that is to say, no human laws should be suffered to contradict these."—BLACKSTONE'S *Commentaries* (1765, 1st ed.), Vol. I, pp. 41, 42.

The part of our Constitution generally called the Bill of Rights, adopted in 1791 as the first ten amendments to the organic act, set forth in considerable detail many of the fundamental rights to protect and further which governments were created. They remain with us today.

2. That All Persons, Regardless of Race, Color, or Creed, Are Equal Before the Law

In the American new order men may differ by natural inequality in strength of body, mind, will, or possession of property. But in recognition by the government, in their civil, political, and religious rights, all are equal. We know no caste system in society, nor any privileged class. The signers of the Declaration of Independence stated it to be a self-evident truth that "all men are created equal." Abraham Lincoln carried this declaration into practical effect when he issued the Emancipation Proclamation. The Supreme Court of the United States applied it even to officials

of the Government when it refused to give its sanction to any superior claims by them by virtue of office, saying:

"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it."—*United States v. Lee*, 106 U.S. at p. 220.

The principle of equality embodied in the Fifth and Fourteenth Amendments to the Constitution, controlling both Federal and State governments, being paramount law, binds all types of officials in their conduct toward their fellow men. They therefore have no authority to prefer one group of persons over another, conferring on some privileges not granted to others, or imposing on some duties not exacted similarly of others. Creedal discrimination, racial mistreatment, color lines—all offend basic equality principles.

3. That Governments in the Exercise of Their Powers Are Restricted by Principles Embodied in Written Constitutions

Chief Justice Marshall in 1803 said:

"That those limits [imposed upon government] may not be mistaken, or forgotten, the Constitution is written. . . . All those [governments] who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation. . . . [It is] one of the fundamental principles of our society."—*Marbury v. Madison*, 1 Cranch at pp. 176, 177.

In the American conception, governments are created by the people and exist for their welfare. In order that their servants in the government might know the limits of their powers, the people put into express words the principles which must be followed in the conduct of government. Thus even the minority had protection against the majority. This type of government is totally unlike that which prevailed in the Nazi and Fascist regimes of Europe, or the present Communist Russia.

In the American viewpoint, under written principles embodied in constitutions, governments are to do certain acts for the people, while other acts are prohibited to them entirely. This does not make for lawlessness; on the contrary, even before governments existed, Divine Intelligence and its moral laws existed, and still do so. This thought was well expressed by the jurist Bishop:

"God who reigns in nature by laws which the eye does not see, reigns thus invisibly yet equally in the human mind and in society."—*Non-Contract Law*, sec. 84.

In truth, it is a matter of common knowledge that the vast majority of individuals act "according to law" without ever consciously being aware of legal requirements or restrictions. St. Thomas of Aquino phrased it correctly when he observed:

"Every law humanly enacted participates of the character of law in so far as it is derived from the natural law. If, however, it be at variance in any way with the natural law, it will not be a law, but a corruption of law."—*Summa Theologica*, part II, 1st part, ques. 95, art. 2.

4. That Governments May Not Enter the Realm of Religion or Liberty of Conscience

The founders of the American Republic were influenced by Blackstone's legal philosophy in still another respect than that we have referred to earlier. Blackstone had written:

"Man, considered as a creature, must necessarily be subject to the laws of his Creator, for he is entirely a dependent being. . . . And consequently as man depends absolutely upon his Maker for everything, it is necessary that he should, in all points, conform to his Maker's will."—BLACKSTONE'S *Commentaries* (1765, 1st ed.), Introduction, sec. 2, p. 39.

Both the founders of the Republic and the fathers of the



The Obverse Design of the Great Seal of the United States is the One Seen on Official Documents. The Original Design, as Adopted, Consists of Both Obverse and Reverse. The Reverse, Which Was Never Cut, Contains the Inscription on Which This Article Is Based

Constitution left to the individual himself, without governmental dictation, the right to determine what religious beliefs he might entertain or how they should be practiced, provided the public welfare was not jeopardized. George Washington said:

"While men perform their social duties faithfully, they do all that society or the state can with propriety demand or expect; and remain responsible only to their Maker for the religion or modes of faith which they may prefer or profess."—Letter to Quakers, *George Washington Papers*, Letter Book 29, p. 52.

"Happily the government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support."—Letter to Jews, *George Washington Papers*, Letter Book 30, p. 19.

Thomas Jefferson, writing to Mordecai Noah, a prominent Jewish leader in the Revolutionary period, bemoaned the "spirit of religious intolerance, inherent in every sect, disclaimed by all while feeble, and practiced by all when in power." He believed the only antidote to this vice was "putting all on an equal footing."—*Thomas Jefferson Papers*, Vol. 213, p. 37,988.

The late Justice Holmes said, "We should be eternally vigilant against attempts to check the expression of opinions that we loathe." He believed that under the American Constitution "the best test of truth is the power of the thought to get itself accepted in the competition of the market."

All these authoritative expressions, it is believed, had their source in the teaching of the Founder of Christianity, who said that men were to render to Caesar "the things which are Caesar's; and unto God the things that are God's." This viewpoint became incorporated into the American Constitution by the First Amendment prohibiting Congress from enacting any law respecting an "establishment of religion or prohibiting the free exercise thereof," and by judicial interpretation of the Fourteenth Amendment imposing similar restrictions upon the several States of the Union.

Qualitatively regarded, this right of religious freedom differs from the numerous other "natural rights," in that it is concerned with the soul's welfare, rather than with that of the physical body, and therefore ought not to be placed upon the same plane with other rights. It concerns the relationship of man to his Maker, a sphere into which others, even officials of government, should not enter. Government cannot make men morally or religiously better; that is a matter outside its rightful authority in the American new order.

Flowing from these basic rights, as necessary corollaries, are those of the parents to educate their children in religious precepts, apart from governmental dictation; and the right of church organizations to have parochial schools for such purposes.

On the other hand the church as an ecclesiastical organization is not to dictate to government in those spheres of authority reserved to the latter. The teachings of the church in spiritual matters may include condemnation of evils in government, but the church as such can practice no coercion over officials of government.

5. The Natural Right to Private Property

The economic security features of the American new order are equally important as the rights of freedom. Man cannot be truly free unless he has the right to acquire, enjoy, and dispose of property. It has been well said:

"The right of property is a fundamental, natural, inherent, and inalienable right. It is not *ex gratia* from the legislature, but *ex debito* from the Constitution. In fact, it does not owe its origin to the Constitutions which protect it, for it existed before them."—*American Jurisprudence*, sec. 335.

"The right to acquire and own property and to deal with it and use it as the owner chooses so long as the use harms nobody is a natural right." "It is a part of the citizen's natural liberty—an expression of his freedom, guaranteed as inviolate by every American Bill of Rights."—*Spann v. City of Dallas*, 235 S.W. 513, 515.

The individual requirements of man's nature demand as a powerful natural incentive to human progress that private property be owned, enjoyed, and disposed of by him. The amounts which he may own, if they are socially harmful, may be controlled by government. A purely communist State in America could not, therefore, be possible without a revolution and the creation of some other kind of new order. The Trojan horse of governmental invasions upon this basic right of private property should be carefully investigated by all true Americans. If government in America desires to function through socialism or state capitalism, it may do so under our Constitution; but at the same time it must permit to its people a residuum of private property. I think this has been the case even in Communist Russia, as its revolution has become more enlightened during the progress of time. While heavy tax exactions during economic depression or in a war economy may deprive Americans of much of their private property temporarily, these sacrifices are cheerfully borne in the interests of national security, and in the confident expectation that on restoration of normalcy, the fundamental balance in favor of a large residuum of private property enjoyment will be encouraged by government. Only in this way can Americans enjoy a maximum of freedom without becoming "wards of the state."

This brief analysis of the basic factors of the new order in America which the Great Seal's inscription must have envisaged, may be of value to Americans in renewing their faith and confidence in their country, and enable them to perpetuate their blessings of religious freedom and economic security. Edmund Burke said, "The people never give up their liberties but under some delusion." Let it not be said of us Americans that we thought "the grass looked greener on the other side of the fence," and therefore we gave up our own new order for a mirage elsewhere.

Should We Abandon the American Principle of the Freedom of Religion?

By J. A. BUCKWALTER

IT HAS BEEN SAID that "Christian education is today the imperative need of America." It certainly is. As never before, the home, the church, and the church school are challenged to supply this spiritually anemic generation with the religious instruction necessary to a well-balanced life. It is their sacred duty and inalienable right. It does not necessarily follow, however, that Christian education is the responsibility of the public school, which exists for the equal welfare and educational advantage of all students, regardless of creed, belief, or unbelief. There are those who argue that the secular state should come to the aid of the church as an educator in the field of religion. Have all such carefully weighed the consequences of a move which would no longer leave the religious field open to the complete freedom of the home, the church, and the church school? Since the state has no responsibility for, or jurisdiction over, the souls of its citizens, what qualifications, competence, or right has it to teach religion? Complications vital to the free way of life are involved and should be candidly considered. Seven of these are listed herewith:

1. State Religious Education Invades Basic Human Rights

Religious liberty is not confined to freedom of faith and worship; it also includes freedom of religious education. It is the parents' right to teach religion, and to choose that church or church school in which they would have their children taught. And that right cannot be justly assumed by the state nor be counteracted by public school instruction.

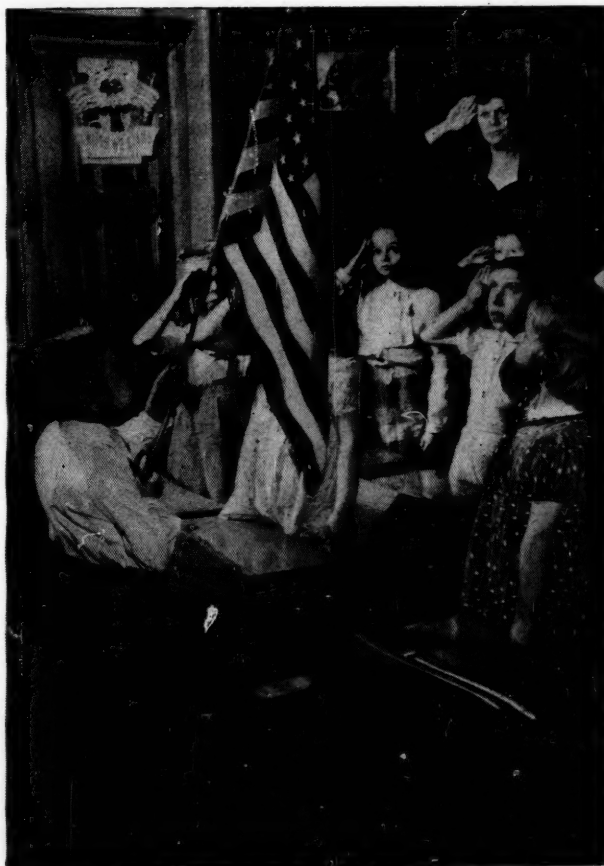
Furthermore, every pupil, regardless of belief or unbelief, orthodoxy or heterodoxy, conformity or nonconformity, has an *equal right* to enjoy the benefits offered in the public schools of our land without infringement of his freedom of worship, belief, or conscientious convictions. Even the "released time" policy ignores the great principle of equality for all, by subjecting the children of the small minorities to the embarrassment of excluding themselves from school exercises because of religious convictions or differences. The very exclusion of these children on religious grounds constitutes an act of preference by the state in favor of the majority who choose to conform and an act of discrimination against the nonconforming minority. This amounts to a species of social ostracism. Thus, in effect, the equality of all children under our public school system would be destroyed—an equality which the laws of a free America are bound to maintain.

Nor is this all. Are we to ignore the rights of teachers whose belief or disbelief may not conform to the syllabus of instruction outlined, or even to the simple reading of a few Bible texts? Would America lose from her public schools those teachers of freedom who do not believe in the union of church and state? Again, what requirements of a religious nature would be asked of a teacher in order that he or she may qualify as an instructor of religion, even of the most elementary character? What limitations would be imposed upon him? Any attempt to maintain a uniform orthodoxy among teachers is an attempt to regiment by degrees the religious life of the nation and circumscribe private opinions in religious matters. It should be unlawful for public schools to teach the philosophies of atheism, agnosticism, sectarianism, antidenominationalism, ecumenicalism, or any other religious philosophy, for, in respect

for the common rights of all, the state as an educator must be kept out of the field of religion. Remember Madison's statement of fundamental principle: "Religion is not in the purview of human government."

2. Religious Education Through the Public School Is a Subtle Form of Religious Discrimination

The growing intolerance toward minorities is already so widespread that it would be exceedingly unfortunate if religious legislation in the field of education should make of our public school system an instrument for the social and educational ostracism of the unorthodox. By granting freedom of absenteeism to those who do not conscientiously conform, educational authorities admit that religious education in public schools cannot accommodate all religions on an equal basis. To force students to attend would be intolerance. To force them to either attend or absent themselves is a dangerous step, fraught with possible tragic consequences. The state cannot guarantee that no pressure will be brought upon the children of nonconforming par-



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The Public Schools of the Land Should Inculcate Love of Country and Respect for the Flag. But the Teaching of Religion Should Be Left to the Home, the Church School, and the Church

ents to make them feel that they must be like the rest. Will not those who fail to conform be exposed to social persecution as despised dissenters, unpopular and shunned; deserving, in the minds of their playmates and adults too, the epithets of "queer," "peculiar," "fussy," "fool," "heretic," and whatever adjective may spring to the lips of their tormentors? Would not such state-supported religious discrimination through our public schools constitute unfair competition in the field of evangelism? Is it wise to inaugurate what might well become a government-supported and government-supervised proselytizing propaganda in favor of the majority group or federation? Legislation on the subject of religious education is legislation in the field of religion, and all religious legislation is dangerous.

3. How Shall the Bible Be Explained?

Very few children are sufficiently matured to understand without some guidance and explanation the main portions of the Bible. What explanation shall be given to the children of various faiths? Would the instructors adhere to a literal interpretation of the Bible or teach a modern form of gnosticism? Will Modernists or Fundamentalists profit from the instruction given? Protestants or Catholics? Just how much doctrine about the Bible and its truths is compatible with all faiths? Will Jewish children be compelled to read the New Testament? Or will Catholic children be forced to hear the Bible read without the interpretation of the church? Or would Protestant children have to listen to the reading of the Apocryphal books of the Catholic Bible? Would the board of education provide when needed, the sacred books of the Mohammedan, Chinese, or Persian pupil too? Shall we drive the wedge of dissension and inequality into an institution which was founded on the basic principle of equality and liberty? God forbid!

4. Whose Religion Will Be Taught?

It is foolish to answer either "nobody's" or "everybody's," since neither answer would be true, for it is self-evident that if religion is to be taught, some individuals or organizations will be responsible for the outline of the instruction



H. W. LAMBERT

The Reading of the Bible Has Always Been Considered a Religious Exercise. It Has a Place in the Home, but Not in the Public School

to be given. We therefore respectfully ask, What religion will be taught? Whose religion? The state's religion or the church's religion? Which church or federation of churches? Obviously a public school theology must be established through the co-operation of religious and secular authorities, and of necessity some sort of synthetic religion will develop to which all, it is doubtless expected, will in the end more or less conform. It would be only natural for this synthesis to be the product of the more powerful and influential religious bodies. What churches or church federation would profit most by this religious teaching?

Just what type of synthetic religion would it be possible to teach and still be fair to all pupils of all denominations? Baptists should not be taught sprinkling, nor Seventh-day Adventists Sunday observance, nor Christadelphians the doctrine of the inherent immortality of the soul. Would the Jewish child be taught that Christ is the Messiah? What possible synthetic interpretation of the first chapter of Genesis, the fall of Adam and Eve, and the Deluge could equally satisfy the divergent beliefs of the children of the evolutionist and the children of the creationist? And what would the school do with the Ten Commandments when even some clergymen, strangely enough, contend that they have been abrogated? If they are taught, will they be merely grouped with the laws of the nations of antiquity, or be interpreted as the will of the Eternal? Will they be taught as they are found in the Bible, or as they appear in the Catholic catechism? But it is argued that no doctrine will be taught. Nonsense! Can one give heed to the reading of the Bible without learning doctrine? If all that is sought is a code of ethics, then let us have a course in ethics and cease the attempt to make religious instruction a part of the public school system.

5. State Religious Education Lays a Foundation for Religious Regimentation

Prescribed religious instruction, however innocently it first appears, is a step toward church-state regimentation of religion. One of the great lessons of history is that synthetic uniformity and conformity in religion have always been a menace to the spiritual welfare of a nation and to human progress. And today the greatest danger that America faces is the subtly organized attempt of political-minded religious hierarchies, Protestant and Catholic, to dominate our political and educational system. This source of pressure upon our boards of education should be repudiated by all freedom-loving Americans. A state theology is a contradiction of Christianity, and America has decreed that the power of the state shall not be so used. Let us beware of even apparently harmless infractions of that principle. If the principle once be destroyed, the law is nullified.

6. Public School Religious Instruction Secularizes Religion

Religious instruction in public schools would encourage a further secularization of religion as a common subject of the secular curriculum. Religion might become just another "R" to be added to the three "R's" of age-old standing—a classification which would rob it of its peculiar sacredness in the minds of many.

7. Tax-supported Religious Training Violates the Principle of the Separation of Church and State

In His famous dictum, "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's," our Lord put religious education beyond the legitimate reach of secular government. The only safety for our democracy is to insist upon the separation of church and state in matters pertaining to religious education, and abide by the eternal wisdom of the Christ. Every sincere Christian claims the divinely given right for himself and

his children to worship God according to the dictates of conscience. This right which he claims for himself is a duty he owes to all others! You, dear reader, claim that right. I claim it. It thereby becomes the duty of both of us to grant it to all others, whatever our differences of opinion might be. Our fair land can enjoy freedom of soul just so long as its peoples are united and agreed on this common religious heritage of man. Sectarian or antisectarian instruction in the public schools would jeopardize our democratic foundation of government, for, as a justice of a court in the State of Ohio once observed, "United with government, religion never rises above the merest superstition; united with religion, government never rises above the merest despotism; and all history shows us that the more widely and completely they are separated, the better it is for both."—*Board of Education of the City of Cincinnati v. John D. Minor, et al.*

The laws of the land must preserve freedom of conscience to all and provide an educational system which maintains that freedom of conscience. But religious instruction in

public schools establishes a form of state theology and in addition requires its compulsory support by taxing all classes of citizens. If the Protestant culture is dominant in such an educational system, can we wonder if the Roman Catholic communion seeks separate school grants on the grounds that Protestant teachings are being inculcated in the state's public school system? And should the instruction merit the blessings of the Catholic Church, then what would be the reaction of Protestants to the inculcating of Roman Catholic teaching in our public schools? Are great religious bodies to vie with one another for the control of public school religious philosophy supported by common funds of all? In this matter the only safe position for the state is benevolent neutrality toward all and special favors toward none.

To sum up, we quote the words of President Grant: "Leave the matter of religion to the family altar, the church, and the private school, supported entirely by private contribution. Keep the church and state forever separate."—Speech at Des Moines, Iowa, 1875.

House Report on Sunday Mails



[Regular readers of *LIBERTY* know that it exists for the sole purpose of aiding in the preservation of the freedom given to the nation at its founding. This magazine believes in both civil and religious liberty. However, since there are many journals that stand in defense of the former, this one gives practically all its attention to the latter.

In warning Americans against present-day dangers, frequent reference and appeal are made to the leaders of the Republic in its early days. This is done because they lived close to tyranny and were quick to see its smallest beginnings; were awake to the perils of allowing "experiments" to be made upon their liberties, while too often citizens now seem to feel that because they have had liberty, they will have it always.

In our issue for the second quarter, 1945, we dealt editorially with Senator Capper's bill "To provide for use of words 'Observe Sunday' in the cancellation of United States mail."

We give the matter further attention in this issue, and in connection therewith we invite a careful reading of a House Report on Sunday Mails communicated to the House of Representatives, March 4 and 5, 1830. The basic arguments are sound, and it would be well if all our legislators of today understood and appreciated them.—EDITOR.]

MR. JOHNSON OF KENTUCKY, from the committee on the Post-offices and Post-roads, to whom had been referred memorials from inhabitants of various parts of the United States, praying for a repeal of so much of the post-office law as authorizes the mail to be transported and opened on Sunday, and to whom had also been referred memorials from other inhabitants of various parts of the United States remonstrating against such repeal, made the following report:

That the memorialists regarded the first day of the week as a day set apart by the Creator for religious exercises, and consider the transportation of the mail and the opening of the post-offices on that day the violation of a religious duty, and call for a suppression of the practice.

Others, by counter memorials, are known to entertain a different sentiment, believing that no one day of the week

is holier than another. Others, holding the universality and immutability of the Jewish decalogue, believe in the sanctity of the seventh day of the week as a day of religious devotion, and, by their memorial now before the committee, they also request that it may be set apart for religious purposes. Each has hitherto been left to the exercise of his own opinion, and it has been regarded as the proper business of government to protect all and determine for none. But the attempt is now made to bring about a greater uniformity, at least in practice; and, as argument has failed, the government has been called upon to interpose its authority to settle the controversy.

Congress acts under a Constitution of delegated and limited powers. The committee look in vain to that instrument for a delegation of power authorizing this body to inquire and determine what part of time, or whether any, has been set apart by the Almighty for religious exercises. On the contrary, among the few prohibitions which it contains, is one that prohibits a religious test, and another which declares that Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof.

The committee might here rest the argument upon the ground that the question referred to them does not come within the cognizance of Congress; but the perseverance and zeal with which the memorialists pursue their object seems to require a further elucidation of the subject; and, as the opposers of Sunday mails disclaim all intention to unite church and state, the committee do not feel disposed to impugn their motives; and whatever may be advanced in opposition to the measure will arise from the fears entertained of its fatal tendency to the peace and happiness of the nation. The catastrophe of other nations furnished the framers of the Constitution a beacon of awful warning, and they have evinced the greatest possible care in guarding against the same evil.

The law, as it now exists, makes no distinction as to the days of the week, but is imperative that the postmasters shall attend at all reasonable hours in every day to perform the duties of their offices; and the Postmaster-General has given his instructions to all postmasters that, at post-offices where the mail arrives on Sunday, the office is to be kept open one hour or more after the arrival and assorting the mail; but in case that would interfere with the hours of public worship, the office is to be kept open for one hour after the usual time of dissolving the meeting. This liberal construction of the law does not satisfy the memorialists; but the committee believe that there is no just ground of complaint, unless it be conceded that they have a controlling power over the consciences of others.

If Congress shall, by the authority of law, sanction the measure recommended, it would constitute a legislative decision of a religious controversy, in which even Christians themselves are at issue. However suited such a decision may be to an ecclesiastical council, it is incompatible with a republican legislature, which is purely for political, and not for religious purposes.

In our individual character we all entertain opinions, and pursue a corresponding practice, upon the subject of religion. However diversified these may be, we all harmonize as citizens, while each is willing that the other shall enjoy the same liberty which he claims for himself. But, in our representative character, our individual character is lost. The individual acts for himself; the representative for his constituents. He is chosen to represent their *political*, and not their *religious*, views; to guard the rights of man, and not to restrict the rights of conscience.

Despots may regard their subjects as their property, and usurp the divine prerogative of prescribing their religious faith; but the history of the world furnishes the melancholy demonstration that the disposition of one man to coerce the religious homage of another, springs from an unchastened ambition rather than a sincere devotion to any religion.

The principles of our government do not recognize in the majority any authority over the minority, except in matters which regard the conduct of man to his fellow man. A Jewish monarch, by grasping the holy censer, lost both his scepter and his freedom. A destiny as little to be envied may be the lot of the American people, who hold the sovereignty of power, if they, in the person of their representatives, shall attempt to unite, in the remotest degree, church and state.

From the earliest period of time, religious teachers have attained great ascendancy over the minds of the people; and in every nation, ancient or modern, whether pagan, Mahometan, or Christian, have succeeded in the incorporation of their religious tenets with the political institutions of their country. The Persian idols, the Grecian oracles, the Roman auguries, and the modern priesthood of Europe, have all, in their turn, been the subject of popular adulation, and the agents of political deception. *If the measure recommended should be adopted, it would be difficult for human sagacity to foresee how rapid would be the succession, or how numerous the train of measures which might follow, involving the dearest rights of all—the rights of conscience.*

It is perhaps fortunate for our country that the proposition should have been made at this early period while the spirit of the Revolution yet exists in full vigor. Religious zeal enlists the strongest prejudices of the human mind; and, when misdirected, excites the worst passions of our nature, under the delusive pretext of doing God service. Nothing so infuriates the heart to deeds of rapine and blood; nothing is so incessant in its toils, so persevering in its determinations, so appalling in its course, or so dangerous in its consequences. The equality of rights, secured by the Constitution, may bid defiance to mere political tyrants; but the robe of sanctity too often glitters to deceive.

The Constitution regards the conscience of the Jew as sacred as that of the Christian, and gives no more authority to adopt a measure affecting the conscience of a solitary individual than that of a whole community. That representative who would violate this principle would lose his delegated character, and forfeit the confidence of his constituents.

If Congress shall declare the first day of the week holy, it will not convince the Jew nor the Sabbatarian. It will dissatisfy both, and, consequently, convert neither. Human power may extort vain sacrifices, but the Deity alone can command the affections of the heart.

It must be recollected that in the earliest settlement of this country, the spirit of persecution which drove the Pilgrims from their native home was brought with them to their new habitations, and that some Christians were scourged, and others put to death, for no other crime than dissenting from the dogmas of their rulers.

With these facts before us, it must be a subject of deep regret that a question should be brought before Congress which involves the dearest privileges of the Constitution, and even by those who enjoy its choicest blessings. We should all recollect that Cataline, a professed patriot, was a traitor to Rome; Arnold, a professed Whig, was a traitor to America; and Judas, a professed disciple, was a traitor to his divine Master.

With the exception of the United States, the whole human race, consisting, it is supposed, of eight hundred million of rational beings, is in religious bondage; and in reviewing the scenes of persecution which history everywhere presents, unless the committee could believe that the cries of the burning victim, and the flames by which he is consumed, bear to heaven a grateful incense, the conclusion is inevitable that the line cannot be too strongly drawn between church and state. If a solemn act of legislation shall, in *one* point, define the law of God, or point out to the citizen *one* religious duty, it may, with equal propriety, proceed to define *every* part of divine revelation, and enforce *every* religious obligation, even to the forms and ceremonies of worship, the endowment of the church, and the support of the clergy.

It was with a kiss that Judas betrayed his divine Master; and we should all be admonished—no matter what our faith may be—that the rights of conscience cannot be so successfully assailed as under the pretext of holiness. The Christian religion made its way into the world in opposition to all human governments. Banishment, tortures, and death were inflicted in vain to stop its progress. But many of its professors, as soon as clothed with political power, lost the meek spirit which their creed inculcated, and began to inflict on other religions, and on dissenting sects of their own religion, persecutions more aggravated than those which their own apostles had endured.

The ten persecutions of the pagan emperors were exceeded in atrocity by the massacres and murders perpetrated by Christian hands; and in vain shall we examine the records of imperial tyranny for an engine of cruelty equal to the holy Inquisition. Every religious sect, however meek in its origin, commenced the work of persecution as soon as it acquired political power.

The framers of the Constitution recognized the eternal principle that man's relation with his God is above human legislation, and his rights of conscience inalienable. Reasoning was not necessary to establish this truth; we are conscious of it in our own bosoms. It is this consciousness which, in defiance of human laws, has sustained so many martyrs in tortures and in flames. They felt that their duty to God was superior to human enactments, and that man could exercise no authority over their consciences. *It is an inborn principle which nothing can eradicate.* The bigot, in the pride of his authority, may lose sight of it; but, strip him of his power, prescribe a faith to him which his conscience rejects, threaten him in turn with the dungeon and the fagot, and the spirit which God has implanted in him rises up in rebellion, and defies you.

Did the primitive Christians ask that government should recognize and observe their religious institutions? All they asked was toleration; all they complained of was persecution. What did the Protestants of Germany, or the Huguenots of France, ask of their Catholic superiors? Toleration. What do the persecuted Catholics of Ireland ask of their oppressors? Toleration. Do not all men in this country enjoy every religious right which martyrs and saints ever asked? Whence, then, the voice of complaint? Who is it that, in the full enjoyment of every principle which human laws can secure, wishes to wrest a portion of these principles from his neighbor?

Do the petitioners allege that they cannot conscientiously participate in the profits of the mail contracts and post-offices, because the mail is carried on Sunday? If this be their motive, then it is worldly gain which stimulates to action, and not virtue or religion. Do they complain that men less conscientious in relation to the Sabbath obtain advantages over them by receiving their letters and attending to their contents? Still their motive is worldly and selfish. But if their motive be to induce Congress to sanction, by law, their *religious opinions* and *observances*, then their efforts ought to be resisted, as in their tendency fatal both to religious and political freedom.

Why have the petitioners confined their prayer to the mails? Why have they not requested that the government be required to suspend *all* its executive functions on that day? Why do they not require us to enact that our ships shall not sail; that our armies shall not march; that officers of justice shall not seize the suspected or guard the convicted? They seem to forget that government is as necessary on Sunday as on any other day of the week. The Spirit of Evil does not rest on that day. It is the government, ever active in its functions, which enables us all, even the petitioners, to worship in our churches in peace.

Our government furnishes very few blessings like our mails. They bear from the center of our republic to its distant extremes the acts of our legislative bodies, the decisions of the judiciary, and the orders of the executive. Their speed is often essential to the defense of the country, the suppression of crime, and the dearest interests of the people. Were they suppressed one day of the week, their absence must be often supplied by public expresses; and, besides, while the mail bags might rest, the mail coaches would pursue their journey with the passengers. The mail bears, from one extreme of the Union to the other, letters of relatives and friends, preserving a communion of heart between those far separated, and increasing the most pure and refined pleasures of our existence; also, the letters of commercial men convey the state of the markets, prevent ruinous speculations, and promote general as well as individual interest; they bear innumerable religious letters, newspapers, magazines, and tracts, which reach almost every house throughout this wide republic. Is the conveyance of these a violation of the Sabbath?

The advance of the human race in intelligence, in virtue, and religion itself, depends, in part, upon the speed with which a knowledge of the past is disseminated. Without an interchange between one country and another, and between different sections of the same country, every improvement in moral or political science and the arts of life, would be confined to the neighborhood where it originated. The more rapid and the more frequent this interchange, the more rapid will be the march of intellect and the progress of improvement. The mail is the chief means by which intellectual light irradiates to the extremes of the republic. Stop it one day in seven, and you retard one seventh of the advancement of our country.

So far from stopping the mail on Sunday, the committee would recommend the use of all reasonable means to give it a greater expedition and a greater extension. What would be the elevation of our country if every new conception could be made to strike every mind in the Union at the same time? It is not the distance of a province or

State from the seat of government which endangers its separation; but it is the difficulty and unfrequency of intercourse between them. Our mails reach Missouri and Arkansas in less time than they reached Kentucky and Ohio in the infancy of their settlements; and now, when there are three million of people extending a thousand miles west of the Allegheny, we hear less of discontent than when there were a few thousands scattered along their western base. To stop the mails one day in seven would be to thrust the whole western country, and other distant parts of this republic, one day's journey from the seat of government.

But, were it expedient to put an end to the transmission of letters and newspapers on Sunday because it violates the law of God, have not the petitioners begun wrong in their efforts? If the arm of government be necessary to compel men to respect and obey the laws of God, do not the State governments possess infinitely more power in this respect? Let the petitioners turn to *them*, and see if they can induce the passage of laws to respect the observance of the Sabbath; for, if it be sinful for the mail to carry letters on Sunday, it must be equally sinful for individuals to write, carry, receive, or read them. It would seem to require that these acts should be made penal to complete the system. Traveling on business or recreation, except to and from church; all printing, carrying, receiving and reading of newspapers; all conversations and social intercourse, except upon religious subjects, must necessarily be punished to suppress the evil. Would it not also follow, as an inevitable consequence, that every man, woman, and child should be compelled to attend meeting? And, as only one sect, in the opinion of some, can be deemed orthodox, must it not be determined by law which *that* is, and compel all to hear those teachers, and contribute to their support?

If minor punishments would not restrain the Jew, or the Sabbatarian, or the infidel, who believes Saturday to be the Sabbath, or disbelieves the whole, would not the same system require that we should resort to imprisonment, banishment, the rack, and the fagot, to force men to violate their own consciences, or compel them to listen to doctrines which they abhor? When the State governments shall have yielded to these measures, it will be time enough for Congress to declare that the rattling of the mail coaches shall no longer break the silence of this despotism.

It is the duty of this government to afford *all*—to Jew or Gentile, pagan or Christian, the protection and the advantage of our benignant institutions on *Sunday* as well as every day of the week. Although this government will not convert itself into an ecclesiastical tribunal, it will practice upon the maxim laid down by the founder of Christianity—that it is lawful to do *good* on the Sabbath day.

If the Almighty has set apart the first day of the week as a time which man is bound to keep holy, and devote exclusively to His worship, would it not be more congenial to the precepts of Christians to appeal exclusively to the great Lawgiver of the universe to aid them in making men better—in correcting their practices, by purifying their hearts? Government will protect them in their efforts. When they shall have so instructed the public mind, and awakened the consciences of individuals as to make them believe that it is a violation of God's law to carry the mail, open post-offices, or receive letters on Sunday, the evil of which they complain will cease of itself, without any exertion of the strong arm of civil power. When man undertakes to be God's avenger, he becomes a demon. Driven by the frenzy of a religious zeal, he loses every gentle feeling, forgets the most sacred precepts of his creed, and becomes ferocious and unrelenting.

Our fathers did not wait to be oppressed when the mother country asserted and exercised an unconstitutional power over them. To have acquiesced in the tax of threepence upon a pound of tea, would have led the way to the most cruel exactions; they took a bold stand against the principle, and liberty and independence was the result. The petitioners have not requested Congress to suppress Sunday

mails upon the ground of political expediency, but because they violate the sanctity of the first day of the week.

This being the fact, the petitioners having indignantly disclaimed even the wish to unite politics and religion, may not the committee reasonably cherish the hope that they will feel reconciled to its decision in the case; especially as it is also a fact that the counter-memorials, equally respectable, oppose the interference of Congress upon the ground that it would be legislating upon a religious subject, and therefore unconstitutional?

Resolved, That the committee be discharged from the further consideration of the subject.—*American State Papers* (Congressional), Class VII, pp. 229-231.

EDITORIALS

Conscientious Objectors and Naturalization

EVER SINCE THE SUPREME COURT of the United States denied citizenship to Douglas Clyde MacIntosh, a minister of the gospel, by a 5 to 4 decision, May 25, 1931, there has been more or less agitation from several quarters seeking a change of the procedure in naturalization cases, which was approved by our highest tribunal's action in the MacIntosh case. At least two other cases similar in general outline, but embodying principles somewhat different from those involved in that case, have reached the Supreme Court. The decisions in these confirmed the position taken in the MacIntosh case.

Apparently the matter will not down. As we reported in our issue for the fourth quarter, 1944, two soldiers who were serving in the Army under the draft classification known as I-A-O were granted citizenship by United States Judge Charles H. Leavy. Though both of these men were opposed to bearing arms, they were not pacifists as the term is ordinarily understood, because they did not object to serving in the Army in a noncombatant capacity. Evidently the naturalization authorities were not willing to appeal these cases, for as far as we know, no action has been taken to have Judge Leavy's decision set aside, and we suspect too much time has gone by now for an appeal to be made, if it has not been done.

A case that we have not previously noticed in our columns may be of interest to our readers. Harta Inez Losey applied for naturalization, and her petition was considered in the District Court of the United States for the Eastern District of Washington, Southern Division. The presiding judge was the Honorable Lewis B. Schwellenbach, now Secretary of Labor in the Cabinet of President Truman. Judge Schwellenbach felt compelled to follow the decisions to which we have referred, and denied citizenship to Mrs. Losey. However, he made these very striking comments:

"Harta Inez Losey was born in Minneapolis, Minnesota, fifty-four years ago. Her husband was born at Dawson, North Dakota. Petitioner and her husband went to Canada to take up a homestead in Alberta. The petitioner lost her citizenship through the naturalization of her husband in Canada in 1913. They returned to the United States in 1917 residing here until 1930 when they went to India as missionaries. Their return to this country occurred in May, 1938. The petitioner's husband is an ordained minister and the petitioner, a licensed missionary in the denomination called Seventh-day Adventists. Petitioner is a fine wholesome-looking woman and she testified that she believed in our form of government and in the Constitution and Laws of this country. She has never been charged with the violation of any law except on one occasion in which she was charged with parking an automobile improperly. Objection to her naturalization was taken by the examiner on the ground of her unwillingness to take an oath to bear

arms. I was deeply impressed with the petitioner's indication of sincerity and the presentation of her testimony. She specifically denied that she was a pacifist or believed in the principles of pacifism. She stated that she had not nor would not participate in any meetings or discussions or the distribution of literature which concerned what is commonly known as pacifism. She testified that she fully recognized the right of the Congress under the Constitution to declare war. She fully accepts the doctrine that the decision upon the question of war or peace is one to be made by the Congress and that that decision is binding upon the citizens of the country. She declares she would accept that decision and would be willing to participate in any sort of war work except the actual shooting of a weapon. She entitles herself a noncombatant as distinguished from a conscientious objector. She testified: 'I feel there is a difference because the conscientious objectors, as I understand it, refuse to salute the flag and refuse to do anything.' She testifies that she would be glad to work in an Army Camp or do any other necessary war work except actually bear arms. . . .

"I was much impressed with the attitude of Mrs. Losey. She is, in my opinion, the type of woman who would make a very fine citizen. Were it not for the fact that I feel myself bound by the three decisions of the Supreme Court of the United States upon this question, I would admit her to citizenship. The examiner based his motion that the petition be dismissed on the ground that the petitioner is not eligible for naturalization because she is unwilling to take the oath of allegiance to the United States in the manner and form prescribed by law."

After referring to the MacIntosh, Schwimmer, and Bland cases, Judge Schwellenbach stated that his personal opinion was that the dissents in the above cases really clearly stated the law. "I agree with Chief Justice Hughes [in a dissenting opinion in the MacIntosh case] that the inclusion of the meaning about bearing arms in the oath as administered to prospective citizens is not justified either by the law or by the form of the oath itself. The form of the oath is not materially different from the form of oath prescribed for those who may enter upon the performance of their duties as public officials in the United States. It is never required that a public official taking his oath should add to the oath the language required by the naturalization examiner. . . . I have taken the oath to perform the duties of two very important offices in this country and nobody asked me whether I would bear arms. Furthermore, the whole policy of our Government has been to recognize the right of conscientious objectors to refuse to bear arms. In the opinion of the lower court in the MacIntosh case, found in 42 Fed. (2) 845, there appears a discussion of the various provisions of the various draft acts in which recognition of this right has been made by the Government. To them may now be added the exemption provisions of the Selective Training and Service Act of 1940. I can't agree with the majority opinion in the Schwimmer case that this action results in applicants for citizenship being placed upon the same footing as the citizens themselves. These decisions require of the applicants for citizenship a higher degree of patriotism than we require of native-born citizens."

Since Judge Schwellenbach wrote this opinion he has taken another oath of office. We are sure that on this occasion he was not asked whether he would be willing to bear arms in defense of our country.

We are strongly inclined to the belief of both Justice Hughes and Judge Schwellenbach that the naturalization authorities have added to the law in the matter of the oath they require. It is a pity that the decisions of the Supreme Court have given authority to their presumptions.

There is a case now in the courts that we shall watch with interest and with hope. On August 8, 1940, James Louis Girouard filed his declaration of intention to become a citizen of the United States. Mr. Girouard was born in Canada in 1902 and came to this country in 1923. His

application for citizenship was granted, the District Court entering the following order: "That since the Selective Service and Training Act permits, as a matter of right, an applicant for the draft to express a willingness to serve in the armed forces of the United States, but as a noncombatant, then this petitioner by exercising that right is still a person who can take an unqualified oath of allegiance to the United States, and is therefore eligible to citizenship."

The Government appealed from this opinion of the District Court at Boston, and two judges of the three who constitute the United States Circuit Court of Appeals for the First Circuit held "that the lower Court was in error."

Justice Woodbury, who dissented, followed the reasoning of the minority judges in the MacIntosh, Bland, and Schwimmer cases, Justice Leavy, and the spirit of Justice Schwellenbach's ideas.

The Girouard case has been appealed to the United States Supreme Court. We shall watch with interest its outcome. We do not believe any matter is settled until it is settled right.

H. H. V.

The Metamorphosis of a Little Nazi

ABOUT THE TIME Hitler's power at home reached its peak and before his forces began the invasion of Germany's neighbors, a minister of religion—a citizen of Germany—came to America to reside. The family consisted of the father, the mother, a grown daughter, and a son about ten years of age. The older members of the family, though naturally attached to their homeland, appreciated the advantages and comforts and freedom found in the United States and easily adjusted themselves to living conditions here. But the boy was a perfect little Nazi! He was sure that this land could not compare in power or glory with Germany. His manner was often arrogant, if not actually pugnacious.

Shortly after their arrival the parents entered the lad in a private day school operated near the family home. His attitude and his words showed his contempt for the school, and his strong nationalistic feelings led him to assert he would never salute the flag of the United States.

Children are apt to be fierce in their loyalties, and the little American children soon reported the alien's words and deeds both to their teachers and their parents. Naturally there was much unfavorable comment in the school and in the community. There was even some demand that the boy be dismissed from the school, and some ultra-patriots went so far as to hint that the parents must be encouraging their son in his behavior and beliefs.

Fortunately, the principal of the school was the daughter of a man who was born overseas, and she knew how some thoughtless folks speak contemptuously of all immigrants. Wisely she told the pupils that the glory of America lies in its freedom for all. She explained that the newcomer had not been taught the great principles of individual liberty that are guaranteed to Americans by their Constitution, that the new boy was to be pitied more than blamed, that their opportunities and blessings demanded that they be kind and generous toward the lad. Finally she said, "Let's be good to him and see what happens."

Soon a change was noticed. It was not long until our erstwhile little Nazi found joy in things American. He liked to help raise the Stars and Stripes, and did not hesitate to salute the flag.

Force undoubtedly would have failed in his case, but a generous spirit and kind deeds led to a change that coercion never could have brought.

The sequel! When the boy grew old enough he enlisted in the Army of the United States, and is serving there today. Furthermore, his father was recently naturalized. We have heard that the sister has also become an American citizen.

H. H. V.

"Observe Sunday" Cancellation and the Lord's Day Alliance

SINCE THE Capper Senate Joint Resolution 46 "to provide for use of the words 'Observe Sunday' in the cancellation of United States mail" has not been acted upon by Congress, we may be allowed to make another reference to it.

The last words of our editorial concerning this resolution in the second quarter's issue were these: "Senator Capper was not well advised when he introduced it." We had never looked upon the Senator as fanatical. We had considered him to be kindly disposed toward his fellow men. We had been told that in a private conversation he had remarked that he was against anything that smacks of a union of church and state. We had believed that he must know that the state's business is limited to civil affairs—that matters religious fall in the realm of the church. For these reasons we were surprised that he should sponsor S.J. Res. 46; it did not seem like him.

On the other hand, the measure appeared familiar in its wording and its arguments. We felt that the hand might be Capper's but the voice belonged to another. Twenty years of meeting the leading advocates of religious legislation before legislative bodies—Federal and State—has given us some familiarity with arguments usually advanced by those who believe that the state should take care of certain religious matters.

Our suspicions have been justified. *The Lord's Day Leader*, in its April-June, 1945, issue, has an editorial by Reverend Harry L. Bowlby, D.D., secretary of the Lord's Day Alliance. It is headed "Important—Write U. S. Senator Arthur Capper, Washington, D.C." Among other things it says: "We sincerely hope our readers and others who have knowledge of this effort to cancel mail with so proper a slogan, OBSERVE SUNDAY, will write promptly to United States Senator Arthur Capper, expressing appreciation and the hope that the Post Offices and Post Roads Committee will favorably recommend the bill and that Congress will speedily vote its passage and that the President will then sign it into law. . . . If Christian ministers and members of our churches are alert and active, the effort of this Alliance and the earnest co-operation of Senator Capper, we are confident, will not be in vain."

The cat is out of the bag! You will notice that Dr. Bowlby takes first place and is gracious enough to let Senator Capper co-operate with him. If what Dr. Bowlby says is true, the Senator is co-operating in a rather unusual manner, for the editorial from which we are quoting continues: "The only opposition to the bill at this writing has come from the Seventh-day Adventists through letters sent directly to Senator Capper. *These letters are in our possession.*" [Italics ours.] It is hard for us to believe that Senator Capper is turning his correspondence over to Dr. Bowlby. But of course it is unthinkable that a doctor of divinity would publish anything that is not true.

All we have to say is, It is a nasty mess. We are sure that Senator Capper's prestige as a legislator will not be enhanced by the sponsorship of this bill, which, according to Dr. Bowlby, is an effort of his Alliance. And we doubt that sending his mail to Dr. Bowlby will increase his reputation as an unbiased representative of all the people of Kansas. His bill is religious legislation. No twisting of terms, no torturing of fact, can change this conclusion. Sunday is purely a religious day, and thus it is looked upon by millions of devout folks. Its observance is a religious act. The state, being separate from the church in this good land, has no proper interest in making Sunday better observed, or observed at all. What Senator Capper is attempting to have done should never be done by the state. Let the preachers exalt Sunday as a day of rest all they please. Let them marshal whatever they can find in the Scriptures toward its support. But do not let them attempt to lead Congress into a violation of the First Amendment of the Constitution.

H. H. V.

Crime to Fish on Sunday

THE OHIO SUNDAY BLUE LAWS used to prohibit all recreation on Sunday, such as baseball, motion pictures, sporting, dramatic performances, circus performances, acrobatics, rope dancing, Negro minstrelsy, living statuary, ballooning, tenpins, or any other games and diversions, such as hunting and fishing. Practically all these antiquated and un-American laws have been repealed, but fishing still remained prohibited under the Ohio Sunday-observance laws. During the present session of the State legislature a Cincinnati attorney, Representative Fred L. Hoffman, Jr., introduced an amendment to the conservation bill, but it was defeated; so fishing is still a legal crime in Ohio on Sundays. Honorable Mr. Hoffman said: "My amendment only provided that it no longer would be a crime to do a little fishing on Sunday." Conservation Commissioner Don Waters stated that the no-fishing regulation was in a group "of old blue laws, about one hundred years old, which nobody ever got around to repealing." These religious laws cling to our civil statute books like barnacles on a ship. Everybody talks about them, but nobody does anything about them.

C. S. L.

"Public Schools and Religion"

UNDER THE ABOVE CAPTION there appeared an interesting editorial in the *St. Louis Post-Dispatch*, June 11, 1945, which is worth reprinting. It says:

"The whole policy of excusing pupils to attend regular religious instruction should be re-examined," we said last week in commenting on the report that showed St. Louis school children to be from a year to two years behind the national average in educational progress.

"The suggestion is reinforced by the disclosure that so many church groups are making bids to conduct religious instruction classes that school authorities have stopped cataloguing them by name, and will henceforth list no denomination on the request blanks sent to parents.

"Discussion of the subject does not bear on the value of teaching religious principles to children. It comes up only because the survey report shows that religious classes are prominent among the outside activities which take time from regular studies; that they consume seven or eight full days of the school year's one hundred ninety days. This affects not only the children who participate; others are not permitted to engage in regular course-of-study work while the religious classes are on, lest the absentees be handicapped.

"A sound American principle is the separation of church and state. This impairs neither, but strengthens both. Schools are a state activity, and elimination of the time out for religious classes is logical, particularly if it is established that it impairs educational efficiency, as now seems evident.

"There is also the question of whether it is desirable for children to be grouped in any way on the basis of religious affiliation, as they are when excused in groups for these classes. This calls attention to the differences in sects, whereas a purpose of public education should be to minimize those differences; to impress, in the formative years, the need for interfaith co-operation.

"Excellent as the purpose of religious classes is, examination will probably show that it can be best left entirely to the churches and parents, in the afterschool and week-end hours when there can be no interference with public schooling. This should help St. Louis children in catching up with the national standard."

Word has come to us from a number of communities which have tried and abandoned this plan because it introduced a discordant spirit into the school system.

The only basis for peace and good will in tax-supported schools, where the children of all religious persuasions attend, is to have the schools maintain an attitude of perfect neutrality on all religious questions.

C. S. L.

Governor Vetoes Bible Bill

GOVERNOR M. C. WALLGREN of the State of Washington vetoed a bill which provided for the teaching of the Bible in the public schools of that State, and which was passed by the State legislature. The governor gave as his reason for vetoing the bill that "the matter needed more careful study."

The Supreme Court of the State of Washington and the State's attorneys general had repeatedly declared that even the compulsory reading of the Bible without comment was unconstitutional. They held that the Bible should not be forced upon unwilling subjects, nor should the general tax fund be compelled to pay for religious instruction and religious textbooks. Governor Wallgren has added his bit to keep church and state separate.

The state should remain neutral on all religious subjects, so that all its citizens may enjoy the equal protection of the laws. Whenever a State legislature enacts a law that the Bible shall be read or taught in the public schools, immediately a religious controversy is provoked. Which Bible shall be read and taught? Shall it be the Catholic Bible, the Protestant, or the Jewish? Should not the Book of Mormon, the Koran, the Buddhist scriptures, or Mrs. Eddy's Scriptural Interpretations be equally admissible? Who is to interpret the Bible when it is taught in the public schools? Are a religious test and qualification to be required in the future of public school teachers? Are the ministers of the various sects to enter the public schools and teach the Bible to all the children or only to volunteers of their own faith? How is such a program to be supported and fostered?

All these questions and many more need to be thoroughly considered, and Governor Wallgren was right when he stated that "the matter needed more careful study." Whenever the state, which is supposed to function "only in civil things," as Roger Williams asserted, invades the religious domain, it embarks on a dangerous course fraught with grave eventualities.

C. S. L.

Holland and Religious Liberty

THE LONG HISTORY of Holland reveals a love of liberty, and particularly religious liberty, that is a credit to the nation. Many bloody battles have been fought on its soil for the preservation of this most precious of human rights. Few lands have undergone more. The suffering of the Netherlands in the recent conflict in Europe has been tragic. It is apparent, however, that the Dutch Reformed Church has never once even toyed with the idea of a compromise involving soul freedom.

In the early days of the war (September, 1941) a pastoral letter sent by the General Synod of the Dutch Reformed Church to the church councilors for the instruction of their congregations had these ringing words:

"Subjects are bound to obey authorities 'in all things which are not against God's Word' (Article 36 of the Netherlands Confession of Faith), even if the instructions of the authorities may seem arbitrary. The Scriptures know one exception to the obligation of obedience to the authorities. When the authorities exceed the limits of their mandate and demand something which goes against God's commandment, then the apostolic word comes into force—'We ought to obey God rather than men.' (Acts 5:29, cf. also 4:19)."

A statement signed by the pastors of the Reformed Church under the general title, "What We Believe, and What We Do Not Believe," may be accepted as their response to the Synod's instruction on the subject of religious liberty. Said they:

"We believe—that God has given the state the mission of maintaining order in the life of the nation; to guarantee justice and the protection of the law; to punish evildoers,

LIBERTY, 1945

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and to safeguard the law abiding. We believe that the state may demand obedience from its citizens in all things that are just and righteous, and that conversely, the citizen may expect from the state that it act righteously according to the prerogative bestowed upon it.

"We believe—that the state, too, on its part, is subject to the Lord of all things, Jesus Christ, through whose grace it governs. We believe further that the state is accountable to Him and that therefore obedience to Christ in certain cases becomes, for the individual citizen, the obligation to be disobedient to the state. For one must obey God before man.

"Therefore, we do not believe but reject as deadly error, through which innumerable persons can easily be estranged from Jesus Christ, that the state can ever be an absolute authority over the citizen.

"We do not believe that the state has the power or the right to make demands that are in conflict with the commandments of Christ, Lord of the world.

"We believe—that in such cases the state not only oversteps the limitations of its authority but also is itself transformed into anarchistic tyranny. Disobedience to such a state in acts that are forbidden by God, is a glorification of God to whom we owe obedience above all others. Then the Christian must accept suffering for the sake of the gospel."

These are two courageous statements made without regard to the danger that threatened those who signed them. Such beliefs as are here expressed are worthy of the long line of heroes from whom their authors can claim spiritual descent. We hope that the return of peace and easier days will not lead to the softening of moral fiber that so often comes when there is no apparent danger.

There has been much talk of "freedom of religion" as one of the things for which the Allies have fought. We hope all liberated peoples may claim it.

H. H. V.

A Fundamental Issue

MANY CLERGYMEN PROTESTED because the San Francisco Security Conference was not opened by formal prayer, and termed the conference of national representatives a "nonreligious procedure" and urged that the "error" be corrected as the conference sessions proceeded. In reply, the U. S. State Department explained that the Security Conference opened with a "moment of silent meditation" instead of a formal prayer, because of the many divergent religious beliefs represented.

In our judgment the U. S. State Department followed the only consistent course in accordance with the fundamental American principle of separation of church and state, and the recognition of all men and all religions as having an equal status before the law and the bar of justice. The San Francisco Security Conference was not a religious gathering but a civil and political assembly. Therefore its functions were not religious but civil. There are more Mohammedans in the world than there are Christians and Jews. Suppose a priest of the Mohammedan religion, which was the majority religion represented at this conference, had been selected by the Secretary of State to open the meeting with prayer in the name of Mohammed, would not these Christian clergymen have objected and protested for the partiality shown the Mohammedan religion? If a Christian clergyman had been asked to offer the opening prayer in the name of Christ, would not the Jew, the Mohammedan, and the nonprofessor of religion have had similar feelings of objection? But when each was allowed to offer his own prayer in a "moment of silent meditation," or not pray at all, according to his own convictions, the privileges and rights and liberties of all were respected, and all men and all religions enjoyed the equal protection of the laws and equal treatment impartially administered. Civil government is ordained to function in civil matters only. It must

remain neutral in all religious controversies and mete out equal justice to all and special privileges to none. That is a fundamental American ideal.

C. S. L.

NEWS and COMMENT

RELIGIOUS NEWS SERVICE is authority for the statement that the secretary of state for Scotland "has ruled that a decision of the Caithness County council that only Protestants could hold positions as teachers or librarians in the county is invalid."

It would certainly be a blot on the good name of Scotland if any such action as the one of the Caithness County council should be allowed to stand.

MR. MACLEISH, former Assistant Secretary of State, said that a directive was sent "to informational agencies," which reads as follows:

"The policy of the United States Government in the dissemination of information abroad, where questions of religion are involved, is determined by the United States constitutional guaranty of freedom of worship. All denominations will be treated alike, and no denomination will be singled out for special treatment."

Every American citizen who believes in the American constitutional guaranty of civil and religious liberty will welcome this piece of good news.

IN THE LAST SESSION of the State legislature of New Hampshire a measure was introduced, known as House Bill No. 83, to amend the school-attendance law to provide for released time for religious education.

The bill provided that "the school board of any district may designate periods of time not exceeding sixty minutes during any week when any child, upon the written request of the parent or guardian, shall be excused from attendance for the purpose of receiving religious education. No public money raised by taxation shall be applied to defray any part of the expenses involved in such religious education."

The act was to take effect on the first of September, but the legislature refused to pass the bill, deeming it "inexpedient."

THE BOSTON Post of July 13 reports that fifteen members of the Jehovah's Witnesses were arrested the day before in Chicopee, Massachusetts, for the violation of a city ordinance against distribution of leaflets. Apparently arrests had also been made a number of times before.

The Jehovah's Witnesses have sought an injunction against the mayor, chief of police, city solicitor, the judge of the district court, and the clerk of the district court. The prayer for a temporary injunction against these officials was denied by Judge Daniel T. O'Connell in the Superior Court.

Apparently the fact that the Supreme Court has ruled many city ordinances invalid and unconstitutional carries little weight with councilmen throughout the country. Whether this latest case will present some new features that will bring it eventually to the Supreme Court for adjudication probably no one can now say.

A BILL PROVIDING for use of public school busses in the transportation of pupils to and from parochial, denominational, or private schools was vetoed by Governor Coke R. Stevenson of Texas. The governor gave a justifiable reason for his veto by asserting that it violated the American ideal and concept of a complete separation of church and state, and also the State constitutional provision, which expressly states: "No law shall ever be enacted appropriating

any part of the permanent or available school fund to any other purpose whatever; nor shall the same, or any part thereof ever be appropriated to or used for the support of any sectarian school." If the general tax funds can be used for the transportation of children to the parochial schools, why not also for textbooks, tuition, and teachers' salaries?

And if for transportation to parochial schools, why not to theological seminaries, Sunday schools, and church services? It is refreshing to see some of our State governors courageously upholding the American system of government even when the state legislators lose their trail.

AN ASSOCIATED PRESS report coming out of Ocean City, New Jersey, states that "Artist William Damcn was arrested yesterday as he was painting a portrait. The reason, said Mayor Clyde Struble: a city ordinance forbids 'unnecessary business' on Sunday."—*Corning Leader* (Corning, N.Y.), July 30, 1945.

That is peculiar business in these modern times. If this had occurred back in the Puritan days of John Cotton and Cotton Mather, one would not be surprised. But in these days when all kinds of business is transacted on Sundays, it is rather odd to pick on a poor, helpless, and perhaps impoverished artist who paints portraits in his studio. Why not pick on the newspaper editors, news dispensers, and radio broadcasters, who advertise all kinds of business on Sunday; the baseball players; motion-picture actors; automobile drivers who haul people for fees; the golf-course owners who charge fees; and a thousand and one other professions and businesses that operate on Sunday? A civil officer should enforce only civil laws, not antiquated, out-moded, un-American religious laws that never should have been placed upon the civil statute books.

THE RELIGIOUS DIVISION of the Ministry of Information of London issues a bulletin entitled "The Spiritual Issues of the War." In its Number 266 there is given the text of an appeal to his clergy by Archbishop Damaskinos of Athens. The archbishop's words are good for clergymen everywhere:

"We are reliably informed that clergymen from the Athens Archbishopric, happily few in number, are taking an active and most deplorable part in public demonstrations by various political organizations, making personal appearances. We trust everyone understands that such behavior contradicts the church's strictly spiritual nature and the clergy's mission among a Christian community. The church's position in political matters which divide citizens into opposing bodies must be strictly neutral and completely impartial. The church is not allowed or entitled to participate in political struggles in any form whatsoever, because the choice of a system of government and of political leaders is exclusively the right of the people themselves,

"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it."—*U.S. v. Lee*, 106 U.S. at p. 220.

exercising according to their own conceptions their political liberties. It is clear that if the church as an institution and administrative body has not the least right to interfere, the clergy have even less right to take the initiative and declare themselves for this or that body. As formulated by both political and ecclesiastical regulations, the clergy

may not interfere in politics, but must exercise their spiritual functions in a Christian society without interfering in matters foreign to themselves. Moreover, interference would also split the clergy into political parties, with consequences harmful to the church's reputation, internal peace and unity, hindering her from accomplishing her high aims and maintaining good relations with the state. . . . Therefore, we, with fatherly counsel, beg you clergy to take no part in political discussions and organizations, but confine yourselves to your strictly spiritual activities, thus exclusively serving your flock's spiritual needs."

TIME, JUNE 25, 1945, reported that in the forming of a new government in Holland, Queen Wilhelmina had invited Willem Schermerhorn, former resistance leader and a member of the Netherlands People's Movement, to assist. *Time* says that "Dutch politics have long been bedeviled by a struggle for power between Catholics and Protestants," and adds that "Schermerhorn proposed to end this struggle," claiming that "a man's religious beliefs . . . had no business in the country's national life."

We think Mr. Schermerhorn has the right formula for both good religion and good politics.

A BILL TO LEGALIZE the teaching of religion for one hour each week in the public schools on school time was defeated in the senate of the Illinois Legislature, although the house of representatives passed it by a majority vote of eighty-five to two. This bill was to legalize what is now being done in about one hundred public schools in Illinois, but is being challenged in court. The outcome of the case is still undetermined.

The Knights of Columbus and the Church Federations of Illinois are favoring the teaching of religion in the public schools. Dr. Preston Bradley, of the People's Church of Chicago, sent a telegram to the legislature, saying: "We want religion but not on schooltime." Reverend Philip Schug, pastor of the Unitarian church of Urbana, sent a telegram to Senator Lyons, chairman of the educational committee which had the bill under consideration, saying, "You have been handed a very hot potato." Sam Levin, member of the Chicago board of education and president of the State CIO; the Illinois Civil Liberties Committee; and the Chicago Council of Applied Religion opposed the bill. It was defeated by a vote of twenty to fourteen.

There is a time and a place for everything, but the public school is not the place for religious teaching.

"WHILE men perform their social duties faithfully, they do all that society or the state can with propriety demand or expect; and remain responsible only to their Maker for the religion or modes of faith which they may prefer or profess." "Happily the government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection shall demean themselves as good citizens, in giving it on all occasions their effectual support."

—George Washington.

